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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/156,391	05/28/2002	Joel S. Bennett	E040 1190.1	4583

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Womble Carlyle Sandridge & Rice, PLLC  
P.O. Box 7037  
Atlanta, GA 30357-0037

EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/156,391

Applicant(s)

BENNETT, JOEL S.

Examiner

Jerry Redman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 9-15 and 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Applicant's election without traverse of Group II-claims 1-8 and 16-20 in Paper No. 6 is acknowledged.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cap mounted on the substrate as recited in claim 1, line 5, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 5, the phraseology "a threshold cap mounted on said substrate" is not readily understood by the Examiner. It appears that the cap is mounted on the sill and the sill is mounted on the substrate. Does the applicant mean that the cap is mounted on the substrate via the sill? In claim 8, line 2, the phraseology "wood flower" is not readily understood by the Examiner. There is a lack of antecedent basis for the following: In claim 2, line 3, "the end", lines 4-5, "the adjacent end", and line 5, "the other substrate section".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 3, 4, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Headrick et al. Headrick et al. disclose a threshold assembly comprising a substrate (26) made up of at least two sections (column 5, lines 29-32 recites a plurality of plastic blocks forming the substrate), a sill (22) having an upwardly exposed channel, an adjustable cap (13) mounted in the channel, and a side light/panel cap (14) mounted in the channel. With respect to claim 4, it's well known that when plastic is formed and shaped into a device (in this case a substrate) that air or tiny air bubbles are formed therein which is considered a "filler".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Headrick et al. All of the elements of the instant invention are discussed in detail above except providing the plastic to be recycled plastic. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the substrate of Headrick et al. with recycled plastic instead of virgin plastic since recycled plastic is a well known replacement for virgin plastic because it's cheaper to manufacture and recycled plastics would perform equally as well as virgin plastics.

Claims 2, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Baczuk et al. disclose a substrate (34, 36, and 38) in a plurality of sections. U.S. patent to Kepler et al. disclose a threshold assembly having a substrate formed of material similar to that of the applicant's invention. U.S. patent to Mees et al. disclose a threshold assembly formed of material similar to that of the applicant's invention.

Claims 2, 7, and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



Jerry Redman  
Primary Examiner